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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : HASAN ET AL.
Serial No. : 09/586,235
For : INTEGRATED PHOTODYNAMIC AND
DIFFERENTIATION THERAPY
Filed : June 2, 2000
Examiner : Stephen L. Rawlings, Ph.D.
Art Unit : 1642

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DECLARATION UNDER 37 C.F.R. § 1.132

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

WE, TAYYABA HASAN, BERNHARD ORTEL AND EDWARD MAYTIN,
DECLARE AND STATE THAT:

1. We are the co-inventors of the subject matter described and claimed in the present patent application.
2. A journal article entitled "Differentiation-specific increase in ALA-induced protoporphyrin IX accumulation in primary mouse keratinocytes" British Journal of Cancer,

June 1998, Vol. 77, No. 11, Pg. 1744-1751 (hereinafter "Ortel et al."), names six authors: B. Ortel, N. Chen, J. Brissette, G.P. Dotto, E. Maytin and T. Hasan. As stated above, the co-inventors of the subject matter described and claimed in the present invention are T. Hasan, B. Ortel, and E. Maytin. Thus, the authors of Ortel et al. are not "others" as defined by 35 U.S.C./102(a) as to the inventive entity of this application, as all of the inventors are named authors of Ortel et al.

3. As is known in the scientific community, persons are or are not included as authors on scientific articles for reasons that do not involve inventorship. Any work reported in Ortel et al., particularly work that may be common to the present application, was performed by or under the direction, supervision or control of the inventors T. Hasan, B. Ortel, and E. Maytin on the present application. Co-authors N. Chen, J. Brissette, and G.P. Dotto of Ortel et al. did not make an independent inventive contribution to the invention claimed in this application.

4. Thus, we are advised and therefore believe that since the authors of Ortel et al. are not "others" as to the present inventive entity, this document is not available as a reference against the present patent application. We thus respectfully request that rejections based on this document be reconsidered and withdrawn.

5. We further declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine, or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the present application or any patent issued thereon.

Date: 7/21/03

Tayyaba Hasan
TAYYABA HASAN

Date: 7/21/03

Bernhard Ortel
BERNHARD ORTEL

Date: 7/16/2003

Edward Maytin
EDWARD MAYTIN